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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,158	11/02/2001	David C. Chambers	54804US002	8753

32692 7590 07/16/2003

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER

NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,158

Applicant(s)

CHAMBERS ET AL.

Examiner

Chi Q Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 4. 6) ☐ Other: _____

DETAILED ACTION

This Office action is response to the applicant's application filed on 11/2/2001.

Applicant's preliminary amendment filed on 11/2/01 to cancel claims 1-7, however there are only 1-6 claims are originally filed.

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1-6 been renumbered 7-12.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 7 recites the limitation " the strip of intumescent material, the item". There is insufficient antecedent basis for this limitation in the claim.

5. Regarding claim 11, the phrase "can be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. As best understood, claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirk (US 5,654,063) in view of Applicant's Admission of prior art. Kirk teaches pressure sensitive cover for fire resistance comprising a layer of intumescent material 14 covering by an overlay 24 of a plastic or foil laminate serves as flexible container, a layer of pressure-sensitive adhesive 16, release sheet 17. The cover comprises a scrim 18 is preferably in the form of an open mesh lattice or screen netting of fiber glass elements, a base member 20 formed of paper, such Kraft paper, foils such as aluminum foils, plastic sheet material (cols. 2-8, figs. 1-2). Kirk does not teach specifically the flexible container comprises a fabric net reinforced aluminum foil with polyethylene heat seal layer, and adhesive attached with liner. The applicant's admission on page 3, lines 19-22, and 27-29 teaches suitable material for the flexible container comprises of fabric net reinforced aluminum foils with polyethylene heat seal layer is commercially available from Alpha Associates, Inc., of Woodbridge, New Jersey, USA particularly the foil available under the designation Alpha Style 4413-VLS, and the adhesive covered with a detachable liner.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Kirk with the applicant's admission for the flexible container made of fabric net reinforced aluminum foil with polyethylene heat seal layer from Alpha Associates, Inc. And the adhesive covered with a detachable liner. The motivation for doing so would have been to provide better bonding and more accuracy positioning for the fire-stopping device.


Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cornwall (US 6,405,502), (US 6,470,635), Stahl (US 6,360,502), Cornwall (US 5,035,097) teach fire stop device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Monday-Thursday (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

CQN
7/7/03


Carl D. Friedman
Supervisory Patent Examiner
Group 3600